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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 09/973,412   | 10/09/2001  | Paul T. Brescia      | 7000-091            | 5711             |
| 27820  | 7590        | 11/12/2004           | EXAMINER            |                  |
| WITHROW & TERRANOVA, P.L.L.C.<br>P.O. BOX 1287<br>CARY, NC 27512 |             |                      | BENGZON, GREG C     |                  |
|  |             | ART UNIT             | PAPER NUMBER        |                  |
|  |             | 2144                 |                     |                  |

DATE MAILED: 11/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |
|------------------------------|------------------------|---------------------|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |
|                              | 09/973,412             | BRESCIA, PAUL T.    |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |
|                              | Greg Bengzon           | 2144                |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 09 October 2001.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-38 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-38 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 09 October 2001 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

This application has been examined. Claims 1-38 are pending.

### ***Priority***

The effective date of the subject matter defined in the pending claims of this application is October 9, 2001.

### ***Information Disclosure Statement***

The information disclosure statements (IDS) submitted on the dates shown below were filed after the mailing date of the application on May 20, 2002. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

IDS Forms submitted on :

May 20, 2002

September 10, 2002

November 25, 2002

November 28, 2003

The following information disclosure statements (IDS) were submitted electronically and were filed after the mailing date of the application on May 20, 2002. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Electronic IDS form submitted on:

February 11, 2003

April 9, 2003

August 21, 2003

February 10, 2004

April 19, 2004

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8,11-22, 24-34, and 36-38 rejected under 35 U.S.C. 103(a) as being unpatentable over Owensby (US Patent 6647257) in view of Heddya et al. (US Patent 6622157) hereinafter referred to as Heddya.

With respect to Claim 1, Owensby discloses a method for selecting content based on location, the method comprising: a. determining a location of a mobile terminal; and b. identifying a plurality for content based on the location of the mobile terminal wherein each of the plurality of content correlates to a unique location.

(Abstract, Figures 1-4, Column 8 Lines 40-60, Column 19 Lines 20-50, Column 6 Lines 1-25)

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With respect to Claim 4, Owensby discloses the method of claim 1 further comprising effecting delivery of the address to the mobile terminal to allow the mobile terminal to request content using the address. The content sent to the mobile terminal contains links to other content. (Abstract, Column 8 Lines 40-60, Column 19 Lines 20-50, Column 6 Lines 1-25)

With respect to Claim 5, Owensby discloses the method of claim 4 wherein the address is delivered to the mobile terminal via one of the group consisting of email, short message service (SMS), system signaling seven (SS7) message, and web page. (Abstract, Column 8 Lines 40-60, Column 19 Lines 20-50, Column 6 Lines 1-25)

With respect to Claim 6, Owensby discloses the method of claim 1 further comprising effecting delivery of content associated with the address to the mobile terminal. (Abstract, Column 8 Lines 40-60, Column 19 Lines 20-50, Column 6 Lines 1-25)

With respect to Claim 7, Owensby discloses the method of claim 1 further comprising accessing the content with the address and effecting delivery of the content to the mobile terminal. (Column 8 Lines 40-60)

With respect to Claim 8, Owensby discloses the method of claim 1 further comprising receiving a trigger initiated by an action of the mobile terminal as a condition of determining the location of the mobile terminal. (Column 4 Lines 35-55)

With respect to Claim 11, Owensby discloses the method of claim 1 further comprising providing a profile of a user of the mobile terminal, and selecting a service associated with the content based on the profile. (Figure 2, Column 1 Lines 10-35)

With respect to Claim 12, Owensby discloses the method of claim 1 further comprising providing a profile of a service provider, and selecting a service associated with the content based on the profile. (Figure 2, Column 18 Lines 10-30)

With respect to Claim 13, Owensby discloses the method of claim 1 wherein the determining step further comprises accessing a location service to obtain location indicia corresponding to the location of the mobile terminal and using the location indicia for identifying the address. (Figure 1, Column 17 Lines 35-50)

With respect to Claim 14, Owensby discloses the method of claim 13 wherein the identifying step uses the location indicia to access content and using the location indicia to identify the content based on the location of the mobile terminal. (Column 17 Lines 35-50, Column 19 Lines 25-55)

With respect to Claims 15, 18-22, and 24-26, Owensby discloses a computer readable medium with software having the same limitations as described in Claims 1, 4-

8,11-14. Therefore, Claims 15, 18-22, and 24-26 are rejected on the same basis as Claims 1, 4-8,11-14.

With respect to Claims 27, 30-34, and 36-38, Owensby discloses an apparatus having the same limitations as described in Claims 1, 4-8,11-14. Therefore, Claims 27, 30-34, and 36-38 are rejected on the same basis as Claims 1, 4-8,11-14.

With respect to Claims 1, 2,3, 15,16, 17, 27,28, and 29, Owensby discloses substantially discloses the invention described in these claims. However, Owensby does not disclose of selecting an address for content based on location of the mobile user. Owensby does not disclose of said unique content being associated with each of the plurality of addresses, and of the same content being associated with each of the plurality of addresses.

Heddaya discloses of news organizations having an overseas site that 'mirrors' the domestic site, such that the content servers at both sites contain the same material and are kept synchronized. When an overseas client without knowledge of the mirroring overseas site sends a document request to the domestic site, the domestic site responds by sending a message to the overseas site instructing the overseas site to provide the requested document. The overseas site responds to this message by providing its mirror copy of the document to the overseas client. Thus Heddaya teaches that content may be stored across multiple servers, that same content may be replicated across multiple servers, and that the content address that is used to fulfill a

mobile user request for content may be chosen depending on the current location of the mobile user (Column 1 Lines 1-50, Column 2 Lines 45-65)

Owensby and Heddaya are analogous art because they present concepts and practices regarding fulfilling content requests depending on the location of the mobile user. It is respectfully suggested that at the time of the invention it would have been obvious to a person of ordinary skill in the art to implement the content server replication concepts as taught by Heddaya into the method and apparatus of o1, such that content is associated with each of the plurality of addresses, and that same content is associated with each of the plurality of addresses. The suggested motivation for doing so would have been, as Heddaya suggests, to distribute the servicing of requests across multiple "mirror image" servers, such server being closer to the requesting user (by number of hops and distance), such that response time is faster and less network traffic is created. (See Heddaya, Columns 4 Lines 1-10)

Therefore it would have been obvious to combine Heddaya with Owensby for the benefit of streamlined content delivery based on location in order to arrive at the invention as described in Claims 1, 2,3, 15,16, 17, 27,28, and 29.

Claims 9,10, 23 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Owensby (US Patent 6647257) in view of Heddaya et al. (US Patent

6622157) hereinafter referred to as Heddaya, further in view of Guedalia (US Patent 6480711).

With respect to Claims 9,10, 23 and 35, the combined teachings of Owensby and Heddaya, when applied together, substantially disclose the invention as described in Claims 9,10, 23 and 35.

However, the combined teachings of Owensby and Heddaya do not disclose method of claim 1 further comprising receiving a trigger unrelated to an action of the mobile terminal as a condition of determining the location of the mobile terminal. Furthermore, the combined teachings of Owensby and Heddaya do not disclose the method of claim 9 further comprising a service to generate the trigger.

Guedalia discloses a method and system whereby a mobile user has pre-programmed message requests for specific data to be transmitted according to specified schedule, such messages being triggered by activation unit and event engine, not according to a request by the mobile user. (Column 7 Lines 55-65, Column 8 Lines 1-15)

Owensby , Heddaya and Guedalia are because they present concepts and practices regarding content delivery to a mobile user. It is respectfully suggested that at the time of the invention it would have been obvious to a person of ordinary skill in the art to implement the concept of listening for signals from an activation unit and event generator as taught by Guedalia into the method and apparatus described by the combined teachings of Owensby and Heddaya, such that the system is able to receive

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a trigger unrelated to an action of the mobile terminal as a condition of determining the location of the mobile terminal and send messages to the user upon receiving the triggers, without any input from the mobile user. The signals from the activation unit and event engine may be internal to the system, or externally created by another service. The suggested motivation for doing so would have been to enable interested sponsors and even the mobile user to select and send targeted messages at the most appropriate time. For example, a flower shop may select to send content to selected mobile users within days prior to Mother's Day.

Therefore it would have been obvious to combine the concepts and practices taught by Guedalia into the combined teachings of Owensby and Heddaya for the benefit of superior marketing and advertising in order to arrive at the invention as described in Claims 9,10, 23 and 35.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please refer to the enclose PTO-892 form.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Bengzon whose telephone number is (571) 272-3944. The examiner can normally be reached on Mon. thru Fri. 8 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Cuchlinski can be reached on (571)272-3925. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

gcb



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